IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.674 OF 2006

Shivaji Babu Chavan ...Applicant

vs.

1.Pandurang Babu Chavan
2.State of Mahrashtra ...Respondents

Mr. S.M.Khaire for the Applicant
Mr.A.B.Tajne for Respondent No.1
Mr.S.R.Shinde,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : AUGUST 21, 2006.

P.C.:

1. Heard learned Advocate for the Applicant. This Application is filed under section 378 (4) of the Code of Criminal Procedure, 1973 for grant of leave to prefer an Appeal. The Applicant is the complainant in a private complaint under section 420 of the Indian Penal Code against the first Respondent herein. By the impugned Judgment and Order, the learned Metropolitan Magistrate has acquitted the first Respondent of the offence punishable under section 420 of the Indian Penal Code.

2. The learned Counsel for the Applicant submitted that the averments made in the complaint show that the allegation regarding commission of offence were not made only on the basis of the alleged partnership transaction between the Applicant and the first Respondent but the case of the Applicant was that the first Respondent dishonestly induced

the Applicant to part with a sum of Rs.35,000/-.

3. I have considered the submissions. Prior to filing of the private complaint, notice dated 23rd January 1997 was issued by the Applicant to the first Respondent in which the only allegation was that the first Respondent had taken money from the Applicant to purchase a truck in partnership. On the basis of appreciation of evidence led by the Applicant, the learned Magistrate has come to the conclusion that a serious doubt is created about the existence of oral partnership or transaction of partnership as pleaded by the Applicant. The finding of the learned Magistrate is that at highest it is established by the Applicant that there was some money transaction between the Applicant and the first Respondent. The view taken by the learned Magistrate appears to be a possible view on the basis of appreciation of oral and documentary evidence on record. No case is made out for grant of leave. Accordingly, application is rejected.

JUDGE